

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

*Cleveland Bakers and Teamsters Health
and Welfare Fund, et al. v. Purdue Pharma
L.P., et al., Case No. 1:18-op-45432-DAP*

MDL No. 2804

Case No. 1:17-md-2804

Hon. Dan Aaron Polster

**DISTRIBUTORS' MOTION FOR LEAVE TO FILE A MOTION TO CERTIFY
UNDER 28 U.S.C. § 1292(b) THE COURT'S FEBRUARY 21, 2020 ORDER
DENYING IN PART THEIR MOTION TO DISMISS THIRD-PARTY PAYOR
CLAIMS, FOR PURPOSES OF SEEKING IMMEDIATE APPEAL OF THE
COURT'S RULINGS THAT DENIED DISMISSAL OF THE RICO CLAIMS**

Defendants AmerisourceBergen Drug Corporation, Cardinal Health, Inc., and McKesson Corporation ("Distributors") respectfully request leave to file a motion to certify under 28 U.S.C. § 1292(b) the Court's February 21, 2020 Opinion and Order, Dkt. 3177 ("Order") denying in part their motion to dismiss claims asserted by Cleveland Bakers and Teamsters Health and Welfare Fund and Pipe Fitters Local Union No. 120 Insurance Fund, for purposes of an immediate appeal of the Court's rulings that denied dismissal of the RICO claims.

Attached hereto are Distributors' proposed motion, memorandum of law in support of that motion, and a proposed order granting Distributors' motion for Section 1292(b) certification. *See* Exs. A–C. For the reasons explained in Distributors' memorandum of law, *see* Ex. B, certification for purposes of an immediate appeal of the Court's rulings that denied dismissal of the RICO claims is warranted. Accordingly, Distributors request leave to file the attached motion and supporting papers.

DATED: March 23, 2020

Respectfully submitted,

/s/ Mark H. Lynch

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CERTIFICATE OF SERVICE

I, Mark H. Lynch, hereby certify that the foregoing document was served via the Court's ECF system to all counsel of record.

/s/ Mark H. Lynch
Mark H. Lynch

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**[PROPOSED] ORDER GRANTING DISTRIBUTORS' MOTION FOR LEAVE TO FILE
A MOTION TO CERTIFY UNDER 28 U.S.C. § 1292(b) THE COURT'S FEBRUARY 21,
2020 ORDER DENYING IN PART THEIR MOTION TO DISMISS THIRD-PARTY
PAYOR CLAIMS, FOR PURPOSES OF SEEKING IMMEDIATE APPEAL OF THE
COURT'S RULINGS THAT DENIED DISMISSAL OF THE RICO CLAIMS**

This matter having come before the Court upon motion by Defendants AmerisourceBergen Drug Corporation, Cardinal Health, Inc., and McKesson Corporation ("Distributors") for leave to file a Motion to Certify for Interlocutory Appeal Under 28 U.S.C. § 1292(b) the Court's February 21, 2020 Order Denying in Part their Motion to Dismiss Third-Party Payor Claims for Purposes of Seeking Immediate Appeal of the Court's Ruling that Denied Dismissal of the RICO claims; the Court having reviewed the motion and related papers; due and proper notice having been provided; and after due deliberation, the Court finds that Distributors' motion should be GRANTED.

SO ORDERED this __ day of _____, 2020.

**HON. DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE**